

House File 2394

H-8088

1 Amend House File 2394 as follows:

2 1. Page 1, before line 1 by inserting:

3 <Section 1. Section 16.91, subsection 3, Code 2016,
4 is amended to read as follows:

5 3. With the approval of the authority board the
6 division and its board shall consult with the insurance
7 division of the department of commerce in developing
8 a guaranty contract acceptable to the secondary
9 market and developing any other feature of the program
10 with which the insurance division may have special
11 expertise. ~~The insurance division shall establish the~~
12 ~~amount for a loss reserve fund.~~ Except as provided in
13 this subsection, the Iowa title guaranty program is not
14 subject to the jurisdiction of or regulation by the
15 insurance division or the commissioner of insurance.

16 Sec. ____ . NEW SECTION. **321N.1 Definitions.**

17 As used in this chapter, unless the context
18 otherwise requires:

19 1. *"Digital network"* means an online-enabled
20 application, software, internet site, or system offered
21 or utilized by a transportation network company that
22 enables transportation network company riders to
23 prearrange rides with transportation network company
24 drivers.

25 2. *"Personal vehicle"* means a motor vehicle that
26 is used by a transportation network company driver and
27 is owned, leased, or otherwise authorized for use by
28 the transportation network company driver. *"Personal*
29 *vehicle"* does not include a taxicab, limousine, or
30 other vehicle for hire.

31 3. *"Prearranged ride"* means the provision of
32 transportation by a transportation network company
33 driver to a transportation network company rider.
34 A prearranged ride begins when a driver accepts a
35 ride request from a rider through a digital network

1 controlled by a transportation network company,
2 continues while the driver transports the requesting
3 rider, and ends when the last requesting rider departs
4 from the driver's personal vehicle. A prearranged
5 ride does not include transportation provided using a
6 taxicab, limousine, or other vehicle for hire, or a
7 shared expense carpool or vanpool arrangement.

8 4. *"Transportation network company"* or *"company"*
9 means a corporation, partnership, sole proprietorship,
10 or other entity that operates in this state and
11 uses a digital network to connect transportation
12 network company riders to transportation network
13 company drivers who provide prearranged rides. A
14 transportation network company is not deemed to
15 control, direct, or manage a transportation network
16 company driver that connects to its digital network,
17 or the driver's personal vehicle, except as agreed to
18 by the company and the driver pursuant to a written
19 contract.

20 5. *"Transportation network company driver"* or
21 *"driver"* means an individual who does all of the
22 following:

23 a. Receives connections to potential transportation
24 network company riders and other related services
25 from a transportation network company in exchange for
26 payment of a fee to the transportation network company.

27 b. Uses a personal vehicle to offer or provide
28 prearranged rides to transportation network company
29 riders upon connection through a digital network
30 controlled by a transportation network company in
31 return for compensation or payment of a fee.

32 6. *"Transportation network company rider"* or *"rider"*
33 means an individual or group of individuals who use
34 a transportation network company's digital network to
35 connect with a transportation network company driver to

1 request a prearranged ride for the individual or group
2 of individuals, and who receive the prearranged ride in
3 the driver's personal vehicle between locations chosen
4 by the individual or group of individuals.

5 Sec. ____ . NEW SECTION. 321N.2 Exclusions — driver
6 requirements.

7 1. A transportation network company, a
8 transportation network company driver, or a personal
9 vehicle used to provide a prearranged ride is not a
10 motor carrier as defined in section 325A.1, private
11 carrier as defined in section 325A.1, charter carrier
12 as defined in section 325A.12, or common carrier.

13 2. Prior to permitting an individual to act
14 as a transportation network company driver on a
15 transportation network company's digital network, the
16 company shall do all of the following:

17 a. Require the individual to submit an application
18 to the company with the individual's name, address,
19 and age, and with copies of the individual's driver's
20 license, the registration for the personal vehicle the
21 individual will use to provide prearranged rides, proof
22 of financial responsibility covering the driver in the
23 types and amounts required by section 321N.3, and any
24 other information required by the company.

25 b. Conduct, or instruct a third party to conduct,
26 a local and national criminal background check on the
27 individual and a search of the national sex offender
28 registry database for the individual.

29 c. Obtain and review a driving history research
30 report on the individual.

31 3. A transportation network company shall not
32 knowingly allow an individual to act as a driver on
33 the company's digital network if any of the following
34 apply:

35 a. The individual has been convicted of more than

1 three moving violations.

2 *b.* The individual has been convicted of violating
3 section 321.218, 321.277, or 321J.21, or section
4 321A.32, subsection 1, in the prior three-year period.

5 *c.* The individual has been convicted in the prior
6 seven-year period of a felony, of violating section
7 321J.2 or 321J.2A, or of any crime involving resisting
8 law enforcement, dishonesty, injury to another person,
9 damage to the property of another person, or operating
10 a vehicle in a manner that endangers another person.

11 *d.* The individual is registered on the national sex
12 offender registry.

13 *e.* The individual is unable to provide any
14 information required by this section.

15 4. A transportation network company shall adopt and
16 enforce a zero tolerance policy prohibiting the use of
17 drugs or alcohol by a transportation network company
18 driver while the driver is providing a prearranged ride
19 or is logged on to the company's digital network and
20 available to receive requests for transportation from
21 potential riders. The policy shall include provisions
22 providing for the investigation of alleged violations
23 of the policy and the suspension of drivers under
24 investigation.

25 5. A transportation network company shall require
26 that a personal vehicle used to provide prearranged
27 rides shall comply with all applicable motor vehicle
28 equipment requirements.

29 Sec. _____. NEW SECTION. **321N.3 Financial**
30 **responsibility.**

31 1. A transportation network company driver, or a
32 transportation network company on the driver's behalf,
33 shall maintain primary automobile insurance that does
34 all of the following:

35 *a.* Recognizes that the driver is a transportation

1 network company driver or that the driver otherwise
2 uses a motor vehicle to transport passengers for
3 compensation.

4 *b.* Covers the driver while the driver is logged on
5 to the transportation network company's digital network
6 and while the driver is engaged in a prearranged ride.

7 *c.* Covers the driver in the amounts set forth in
8 subsections 2 and 3.

9 2. *a.* While a participating transportation network
10 company driver is logged on to a transportation network
11 company's digital network and is available to receive
12 requests for a prearranged ride, but is not engaged
13 in a prearranged ride, primary automobile insurance
14 maintained pursuant to paragraph "c" shall cover the
15 driver in the amount of at least fifty thousand dollars
16 because of bodily injury to or death of one person in
17 any one accident, the amount of at least one hundred
18 thousand dollars because of bodily injury to or death
19 of two or more persons in any one accident, and the
20 amount of at least twenty-five thousand dollars because
21 of injury to or destruction of property of others in
22 any one accident.

23 *b.* The requirements of paragraph "a" shall be in
24 addition to the automobile insurance requirements set
25 forth in chapter 516A or any other provision of law.

26 *c.* The requirements of paragraph "a" may be
27 satisfied by any of the following:

28 (1) Insurance maintained by the transportation
29 network company driver.

30 (2) Insurance maintained by the transportation
31 network company.

32 (3) A combination of subparagraphs (1) and (2).

33 3. *a.* While a transportation network company
34 driver is engaged in a prearranged ride, primary
35 automobile insurance maintained pursuant to paragraph

1 "c" shall cover the driver in the amount of at least
2 one million dollars because of bodily injury to
3 or death of one or more persons and injury to or
4 destruction of property of others in any one accident.

5 b. The requirements of paragraph "a" shall be in
6 addition to the automobile insurance requirements set
7 forth in chapter 516A or any other provision of law.

8 c. The requirements of paragraph "a" may be
9 satisfied by any of the following:

10 (1) Insurance maintained by the transportation
11 network company driver.

12 (2) Insurance maintained by the transportation
13 network company.

14 (3) A combination of subparagraphs (1) and (2).

15 4. If insurance maintained by a transportation
16 network company driver under this chapter lapses or
17 does not provide coverage in the amounts required
18 by subsections 2 and 3, insurance maintained by a
19 transportation network company shall provide coverage
20 in the amounts required by subsections 2 and 3
21 beginning with the first dollar of a claim, and the
22 company shall have a duty to defend the claim.

23 5. Coverage under an automobile insurance policy
24 maintained by a transportation network company under
25 this chapter shall not be dependent on the insurer
26 of a driver's personal vehicle first denying a claim,
27 nor shall a personal automobile insurance policy be
28 required to first deny a claim.

29 6. Insurance maintained under this chapter shall be
30 provided by an insurer governed by chapter 515 or 518,
31 or by a surplus lines insurer governed by chapter 515I.
32 A surplus lines insurer that issues a policy pursuant
33 to this section shall be considered an insurance
34 carrier duly authorized to transact business in this
35 state for the purposes of chapter 321A.

1 7. Insurance maintained under this chapter shall
2 be deemed to satisfy the financial responsibility
3 requirements for a motor vehicle under chapter 321A.

4 8. A transportation network company driver shall
5 carry proof of financial liability coverage, as
6 required by section 321.20B, in the amounts required
7 by subsections 2 and 3, at all times during which the
8 driver uses a motor vehicle in connection with the
9 use of a transportation network company's digital
10 network. In the event of an accident, the driver
11 shall provide proof of financial liability coverage to
12 any directly interested party or insurer, and to any
13 investigating police officer, upon request and in a
14 format provided for under section 321.20B. Upon such a
15 request, the driver shall also disclose to any directly
16 interested party or insurer, and to any investigating
17 police officer, whether the driver was logged on
18 to a company's digital network or was providing a
19 prearranged ride at the time of the accident.

20 Sec. ____ . NEW SECTION. **321N.4 Disclosure**
21 **requirements.**

22 A transportation network company shall disclose
23 all of the following information to a transportation
24 network company driver in writing before the driver may
25 accept a request from a rider for a prearranged ride on
26 the company's digital network:

27 1. The types, amounts, terms, and limits of
28 automobile insurance provided by the company to the
29 driver while the driver uses a personal vehicle in
30 connection with the use of the company's digital
31 network.

32 2. That the driver's own automobile insurance
33 policy, depending on the policy's terms, may not
34 provide any coverage while the driver is logged on
35 to the company's digital network and is available to

1 receive requests for a prearranged ride, or while the
2 driver is engaged in a prearranged ride.

3 Sec. ____ . NEW SECTION. 321N.5 Insurers.

4 1. a. Notwithstanding any other provision of law
5 to the contrary, an insurer that writes automobile
6 insurance within this state may exclude any and all
7 coverage afforded to an insured person under a policy
8 issued to the owner or operator of a personal vehicle
9 for any injury or loss that occurs while the insured
10 is logged on to a transportation network company's
11 digital network or while the insured is providing a
12 prearranged ride. This right to exclude coverage
13 may apply to any type of coverage provided for in
14 the insured's policy, including but not limited to
15 liability coverage for bodily injury and property
16 damage, personal injury protection coverage, uninsured
17 and underinsured motorist coverage, medical payments
18 coverage, comprehensive physical damage coverage, and
19 collision physical damage coverage.

20 b. This chapter shall not be construed to require
21 an insurer to provide coverage to an individual while
22 the individual is logged on to a company's digital
23 network, is engaged in a prearranged ride, or is
24 otherwise transporting another individual or group of
25 individuals in a vehicle for compensation.

26 c. This chapter shall not be construed to preclude
27 an insurer from providing coverage for a transportation
28 network company driver's personal vehicle, if the
29 insurer chooses to do so by contract or endorsement.

30 2. a. An insurer that excludes coverage pursuant
31 to subsection 1 shall not have a duty to defend or
32 indemnify a claim expressly excluded from a policy
33 issued by the insurer. This chapter shall not be
34 deemed to invalidate or limit an exclusion contained
35 in a policy, including a policy in use or approved for

1 use in this state prior to the effective date of this
2 Act, that excludes coverage for vehicles used to carry
3 individuals or property for compensation or vehicles
4 available for hire by the public.

5 *b.* An insurer that defends or indemnifies a claim
6 against an insured transportation network company
7 driver that is excluded under the terms of the driver's
8 policy shall have a right of action for contribution
9 or indemnity against an insurer providing automobile
10 insurance to the driver under this chapter during the
11 period in which the loss occurred.

12 3. In a claims coverage investigation, any involved
13 transportation network company and any insurer
14 providing coverage pursuant to this chapter shall
15 cooperate to facilitate the exchange of relevant
16 information with parties directly involved in the
17 claim, and with any insurer of the transportation
18 network company driver, where applicable, including
19 but not limited to the precise times during which the
20 driver logged on and off of the company's digital
21 network in the twelve-hour period immediately preceding
22 and in the twelve-hour period immediately following
23 the accident, and shall disclose to one another a
24 clear description of any relevant automobile insurance
25 provided pursuant to this chapter, including any
26 applicable limits and exclusions.

27 Sec. ____ . Section 325A.1, subsections 6, 7, and 13,
28 Code 2016, are amended to read as follows:

29 6. "*Motor carrier*" means a person defined in
30 subsection 8, 9, or 10, but does not include a
31 transportation network company or a transportation
32 network company driver, as defined in section 321N.1.

33 7. "*Motor carrier certificate*" means a certificate
34 issued by the department to any person transporting
35 passengers on any highway of this state for hire,

1 other than a transportation network company or a
2 transportation network company driver, as defined in
3 section 321N.1. This certificate is transferable.

4 13. "*Private carrier*" means a person who provides
5 transportation of property or passengers by motor
6 vehicle, is not a for-hire motor carrier or a
7 transportation network company or a transportation
8 network company driver, as defined in section 321N.1,
9 or who transports commodities of which the person is
10 the owner, lessee, or bailee and the transportation
11 is a furtherance of the person's primary business or
12 occupation.

13 Sec. _____. Section 325A.11, Code 2016, is amended to
14 read as follows:

15 **325A.11 Passenger transportation.**

16 In addition to the requirements of [subchapter 1](#),
17 motor carriers of passengers and charter carriers shall
18 comply with the requirements of [this subchapter](#). A
19 transportation network company or a transportation
20 network company driver, as defined in section 321N.1,
21 need not comply with the requirements of subchapter 1
22 or this subchapter.

23 Sec. _____. Section 325A.12, subsection 3, Code 2016,
24 is amended by adding the following new paragraph:

25 NEW PARAGRAPH. *e.* A transportation network company
26 or a transportation network company driver, as defined
27 in section 321N.1.

28 Sec. _____. Section 327D.1, Code 2016, is amended to
29 read as follows:

30 **327D.1 Applicability of chapter.**

31 This chapter applies to intrastate transportation
32 by for-hire common carriers of persons and property.
33 However, [this chapter](#) does not apply to regular route
34 motor carriers of passengers or charter carriers, as
35 defined under [section 325A.12](#), or a transportation

1 network company or a transportation network company
2 driver, as defined in section 321N.1.>

3 2. Page 10, after line 10 by inserting:

4 <Sec. ____ . APPLICABILITY OF TRANSPORTATION NETWORK
5 COMPANY INSURANCE PROVISIONS. The section of this
6 Act enacting section 321N.3 shall apply on and after
7 the date of approval of the form filings necessary
8 to implement section 321N.3 by the commissioner of
9 insurance as required under 191 IAC 20.4.>

10 3. Title page, line 2, after <commerce,> by
11 inserting <involving financial regulation of
12 transportation network companies including insurance
13 requirements,>

14 4. Title page, line 3, after <penalties> by
15 inserting <and applicability provisions>

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